

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: AMENDMENT TO 199 IAC 9.1(3)"f," LAND RESTORATION RULES	DOCKET NO. RMU-01-6
---	---------------------

ORDER COMMENCING RULE MAKING

(Issued July 5, 2001)

Pursuant to the authority of Iowa Code §§ 476.1, 476.2, 479.29, 479A.14, 479B.20, and 17A.4 (2001), the Utilities Board proposes to adopt an amendment to 199 IAC 9.1(3)"f," which is attached hereto and incorporated herein by reference. This proceeding has been identified as Docket No. RMU-01-6. The reasons for proposing these amendments are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-01-6 is commenced for the purpose of receiving comments on the proposed rules in the notice attached hereto and incorporated herein by reference in this order.

2. The Acting Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

Dated at Des Moines, Iowa, this 5th day of July, 2001.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 479.29, 479A.14 and 479B.20, the Utilities Board (Board) gives notice that on July 5, 2001, the Board issued an order in Docket No. RMU-01-6, In re: Amendment to 199 IAC 9.1(3)"f," Land Restoration Rules. The Board is proposing to amend 199 IAC 9.1(3)"f" to correct a drafting error that occurred in the adoption of 199 IAC Chapter 9, effective March 14, 2001.

The Board adopted a new Chapter 9 that established rules regarding restoration of agricultural lands during and after pipeline construction effective March 14, 2001. The Adopted and Filed Chapter 9 was published in the Iowa Administrative Bulletin on February 7, 2001, as ARC 0436B. The error occurred when a revision to the proposed paragraph 199 IAC 9.1(3)"f" was discussed and set out in the preamble but the revision was not made in the rule adopted.

The proposed paragraph 199 IAC 9.1(3)"f" provided a definition of "pipeline construction" as "installation, replacement, operation, and maintenance involving substantial disturbance to the land, and removal of a pipeline, but shall not include emergency repairs." The preamble in the "Adopted and Filed," ARC 0436B, indicated that the definition of "pipeline construction" should be revised to read in pertinent part "a substantial disturbance to agricultural land associated with the

installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency." The Board moved the phrase "substantial disturbance to the land" forward in the sentence to clarify that it applied to the installation, replacement, removal, operation or maintenance of a pipeline. The paragraph as adopted did not contain the language "a substantial disturbance to agricultural land associated with." This was a drafting oversight and this rule making is necessary to properly reflect the Board's decision concerning the definition of "pipeline construction."

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before August 14, 2001, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Acting Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 479.29, and 479B.20.

The following amendment is proposed.

Amend paragraph 9.1(3)"f" as follows:

9.1(3)"f" *"Pipeline construction"* means a substantial disturbance to agricultural land associated with installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency. Emergency means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

July 5, 2001

/s/ Allan T. Thoms

Allan T. Thoms
Chairperson